

AppIn No. 10/736,751
Amendment dated November 2, 2005
Response to Office action of May 2, 2005

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Amendments to the Drawings:

The attached sheets of drawings include changes to Figures 1 and 4a. These sheets which include Figures 1, and Figures 4 and 4a, respectively, replace original sheets including Figures 1, 4 and 4a.

In Figure 1, elements 75 and 77 have been added.

In Figure 4a, numerical references "452" and "456" have been deleted.

Attachments: Replacement sheet containing Figure 1
Replacement sheet containing Figures 4 and 4a
Annotated sheet showing changes to Figure 1
Annotated sheet showing changes to Figure 4a

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Remarks/Arguments:

Claims 1, 3 to 13, and 19 to 25 are pending in the application.

No new matter has been added by amendments made herein further details of which amendments are described below.

Remarks concerning Section 2 of the Action

The feature related to the connection between the braces and sides of the C-shaped frame had been deleted from paragraph [00015.2] of the specification. The description of braces 78 as being located "along the vertical optical axis and on either side of stage 66 of microscope 10" is provided at line 5 of paragraph [00040] of the application as filed.

Paragraph [00015.5] has been deleted, and there is no paragraph [00015.6], referred to in the action, in the application.

Remarks concerning Sections 4 to 6 of the Action

Applicant respectfully points out that drawings were not submitted as part of Applicant's submission of February 21, 2005, and so presumes that the objections raised in the action are to the drawings as originally filed.

The feature related to a C-shaped frame connecting the head portion and the base portion as recited in claims 1 and 18 has been added as element 77 in Figure 1.

Paragraph [00039] has been amended accordingly. Applicant respectfully submits that these amendments add no new matter as the "C-shaped frame" at issue is a conventional element, as disclosed in the specification, and as illustrated by art of record, e.g., Figure 21 of Mayer.

Claims 2 and 18 have been canceled rendering moot the objection to the drawings for lack of illustration of elements recited therein.

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The feature related to a hydraulic cylinder for coupling the braces together is now illustrated schematically as element 75 in Figure 1. Paragraph [00074] has been amended accordingly. Applicant respectfully submits that these amendments add no new matter as hydraulic cylinders are well known. A spelling error has also been corrected in paragraph [00074].

The feature related to a piezoelectric strut is now described in paragraph [00075] as being located similarly to cylinder 75 shown schematically in Figure 1. Applicant thus respectfully submits that no further amendment of the drawings in this regard is required. The feature related to a piezoelectric layer is now described in paragraph [00075] as being located as illustrated in Figure 3, in which figure the element was illustrated as filed. Paragraph [00076] has been amended to name the element as layer 204 for the sake of consistency. The fifth line of paragraph [00075] has been amended to replace the term "strut" with the term "brace". It would be evident to the reader that this was the intended term since the remainder of the sentence refers to lower and upper halves of the braces. A spelling error has also been corrected in paragraph [00075].

Numerical references "452" and "456" have been deleted from Figure 4a. Applicant believes this meets the objection to this figure.

Remarks concerning Sections 7 and 8 of the Action

Paragraph [00039] has been amended to correct minor errors.

Paragraph [0001] has been amended as suggested in Section 8 of the action, and further amended to clarify the filing history of parent applications.

Remarks concerning Sections 9 and 10 of the Action

Claims 2, 14, 16 and 18 stand rejected under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement. These claims have been canceled rendering this rejection moot.

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Remarks concerning Section 11 of the Action

Claim 8 has been amended as suggested in the Action to remove capitalization of the word "microscope".

Remarks concerning Sections 12 to 14 of the Action

Before discussing prior art rejection of claims, Applicant notes that claim 1 is now the sole dependent claim. Claim 11 has been amended to depend from claim 6 and claim 12 has been amended to depend from claim 9, and housekeeping amendments have been made to claims 11 and 12 in view of these new dependencies.

Claims 1 and 3 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Mayer, WO 01/35151. The earliest claimed priority date of Mayer is November 12, 1999, while the instant application is a continuation application of United States Patent Application Serial No. 09/743,222 based on an international application filed on July 12, 1999. Insofar as Applicant's filing date precedes the earliest-claimed priority date of Mayer, there is no evidence of record that Applicant's "invention was known or used by others ... or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant" as required for Mayer to be citable under 35 U.S.C 102(a). Applicant thus respectfully submits that Mayer is not citable under 35 U.S.C. 103(a) and that this rejection is not proper. Applicant respectfully requests withdrawal of all claim rejections based on Mayer.

Claims 1 to 3, 6, 9, 11 to 12, 15, 17, and 18 stand rejected in view of Toyoda *et al.* in view of Mayer. As indicated above, Mayer is not citable as prior art against Applicant's application. Toyoda *et al.* does not disclose all elements of Applicant's invention as defined by independent claim 1. In particular, Toyoda *et al.* does not disclose two curvilinear braces connecting the head portion of a microscope to its base portion as claimed by claim 1, and nowhere in the action does it state that this is the case. Applicant thus respectfully submits that a *prima facie* case of obviousness has not been established.

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All remaining claims, as amended ultimately depend from claim 1. As a *prima facie* case of obviousness has not been established by the disclosure of Toyoda *et al.* against claim 1, neither has a *prima facie* case of obviousness been established against any other claim.

Remarks concerning Sections 12 and 15 of the Action

Claims 4 to 5, 7 to 8, 10 and 13 stand rejected in view of Toyoda *et al.* in view of Mayer as applied to claims 1 and 11, and further in view of Topkaya *et al.*

As indicated above, Mayer is not citable as prior art against Applicant's application.

Topkaya *et al.* does not disclose a microscope, nor does the action state that this is the case. Topkaya *et al.*, insofar as it might be considered relevant to Applicant's invention, does not make up the deficiencies of the teachings of Toyoda *et al.* In particular, Topkaya *et al.* does not disclose two curvilinear braces connecting the head portion of a microscope to its base portion, and nowhere in the action does it state that this is the case.

Further, Applicant submits that the contention in the action that "the use of a piezoelectric setting device or a hydraulic setting device will make the brace element of the brace assembly as a composition of different material and its resonant frequency is not a harmonic or sub-harmonic of the fundamental frequency of the frame of the microscope" is not fairly based on the art of record. Nowhere is it suggested in the art of record to modify either the structure of Toyoda *et al.* or Topkaya *et al.* in such a way that a brace having a resonant frequency that is not a harmonic or sub-harmonic of the fundamental frequency of vibration of the C-shaped frame of a microscope will necessarily be obtained.

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Claims 19 to 25 are added for consideration by the Examiner. Elements recited in these claims are supported by prior claims 3, 4, 6, 7, 8, 9 and 10, respectively.

In view of the foregoing, Applicant believes that all of the objections and rejections set out the action have been met. Allowance of the application is respectfully requested.

A request for an extension of three months for responding to the outstanding action is enclosed. An executed Fee Transmittal form is also enclosed. Applicant hereby requests that any fee which may be required for the papers being filed with this letter and which are not enclosed be charged to Account No. 502651.

In the event that any PTO official wishes to discuss this application on the telephone, the call should be directed to the undersigned at (416) 865-8121.

Yours very truly,



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November 2, 2005
Date

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Annotated Sheet

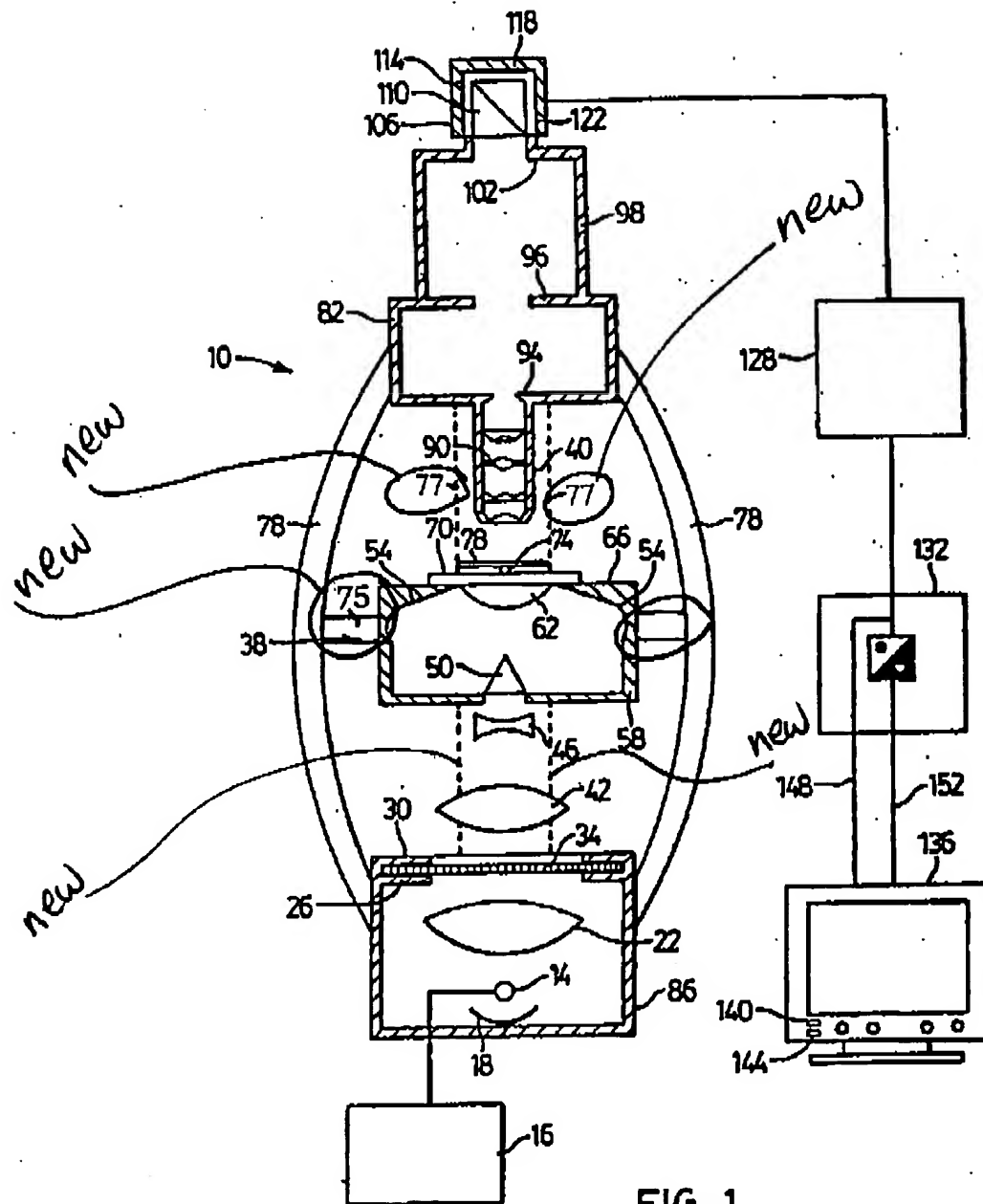


FIG. 1

Annotated Sheet

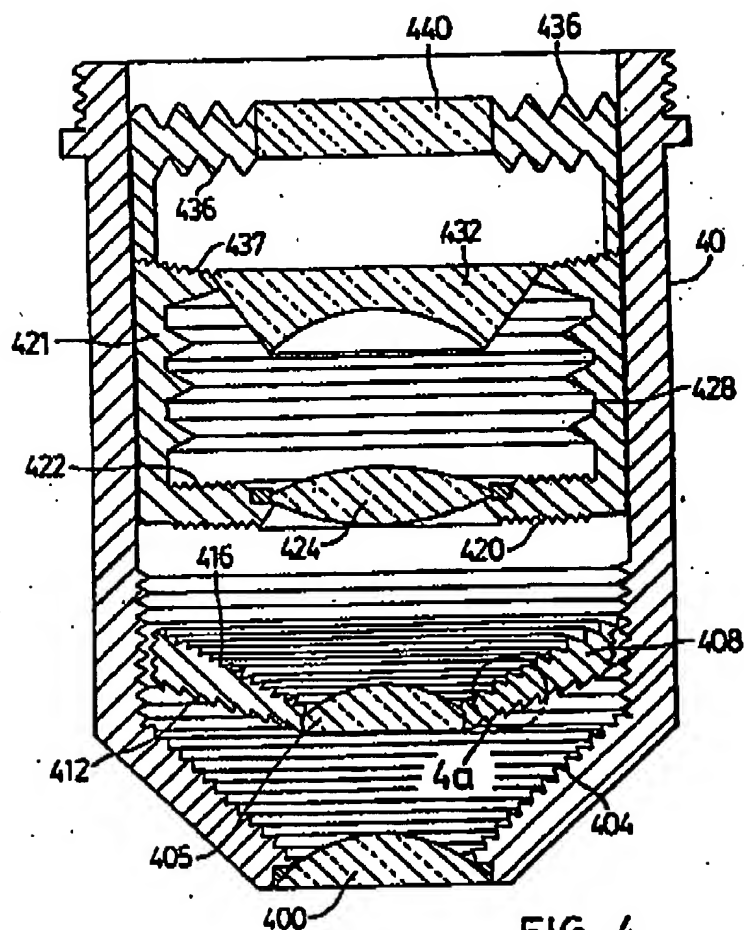


FIG. 4

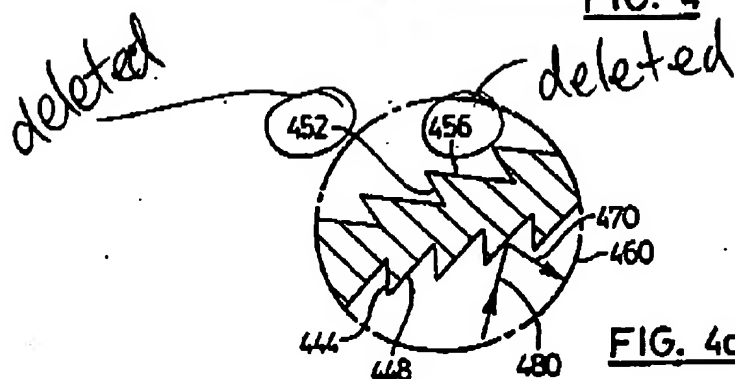


FIG. 4a